

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

TYRONE LA-MAR BAYNHAM,

Plaintiff,

vs.

Case No. 14-2053-SAC

CAROLYN W. COLVIN,
Acting Commissioner of
Social Security,

Defendant.

MEMORANDUM AND ORDER

This is an action seeking review of the final decision of the Commissioner of Social Security that plaintiff was not disabled (Doc. 1). Plaintiff has filed a motion for the appointment of counsel (Doc. 4).

Plaintiff indicates that she has only contacted one attorney. Plaintiff does not indicate whether or not the law firm would represent him; plaintiff only indicates that information was mailed to the law firm. (Doc. 4 at 2). The form filled out by plaintiff states that the court typically requires that before seeking an appointed attorney, a plaintiff confer with at least five attorneys regarding legal representation (Doc. 4 at 2).

There is no constitutional right to appointment of counsel in a civil case. Carper v. DeLand, 54 F.3d 613, 616 (10th Cir.

1995); Durre v. Dempsey, 869 F.2d 543, 547 (10th Cir. 1989). 28 U.S.C. § 1915(e)(1) states that the court may request an attorney to represent any person unable to afford counsel. The decision whether to appoint counsel in a civil matter lies in the discretion of the district court. Williams v. Meese, 926 F.3d 994, 996 (10th Cir. 1991). The court should consider factors including the merits of the matter, the complexity of the factual and legal issues presented, and the movant's ability to present the claims. Rucks v. Boergermann, 57 F.3d 978, 979 (10th Cir. 1995).

The court finds that good cause has not been shown for the appointment of counsel. First, contrary to the explicit instructions contained on the form filled out by the plaintiff, she has only contacted one attorney by phone; plaintiff should attempt to confer with five attorneys. Second, it appears that counsel that was contacted has made no decision regarding representation of the plaintiff. Plaintiff should contact the Lawyer Referral Service of the Kansas Bar Association (1-800-928-3111) and ask for the names of attorneys who represent social security disability claimants.

IT IS THEREFORE ORDERED that the motion for appointment of counsel (Doc. 4) is denied.

Dated this 11th day of February 2014, Topeka, Kansas.

s/Sam A. Crow

Sam A. Crow, U.S. District Senior Judge